

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

WEDNESDAY, THE 21ST FEBRUARY 2007 / 2ND PHALGUNA 1928

OP.No. 12711 of 2003(L)

PETITIONER:

**PRESIDENT,
VALIYAKUZHI KSHEEROLPADAKA CO-OPERATIVE SOCIETY
LTD.NO.A-41 (D) APCOS, MUTTOM P.O., HARIPAD.**

BY ADV. SRI.K.HARILAL

RESPONDENTS:

- 1. D.SOMANATHAN,
MILK COLLECTOR, VALIYAKUZHI KSHEEROLPADAKA
CO-OPERATIVE SOCIETY LTD. NO.A-41 (D) APCOS,
MUTTOM P.O.**
- 2. KERALA CO-OPERATIVE MILK SOCIETIES
EMPLOYEES ASSOCIATION, INTUC (I), TALUK COMMITTEE,
KARTHIKAPPALLY,C/O.KARUVATTA NORTH KSHEEROLPADAKA
CO-OPERATIVE SOCIETY LTD.NO.A-92 (D) APCOS,
KARUVATTA.**

BY ADV. SRI.M.V.MATHEW

**THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD
ON 21/02/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

KURIAN JOSEPH, J.

O.P.No.12711 of 2003

Dated 21st February, 2007.

J U D G M E N T

Ext.P1 award passed by the Industrial Tribunal, Alappuzha in I.D.No.8/01 is under challenge. The issue referred for adjudication reads as follows :-

“Whether Sri.D.Somanathan, Milk Collector, Valiyakuzhi Ksherolpadaka Cooperative Society Ltd. No.A 41(D) APCOS, Muttom P.O. is eligible for sales incentive on the sale of MILMA cattleshed? If so what benefit he is entitled to get?”

Learned counsel appearing for the petitioner management submits that the first respondent is not entitled to the incentive since he was only a milk collector. Reference is also invited to Exts.P2 to P8. It is stated in the writ petition that though the management filed vakkalath, management failed to file written statement within time due to a communication gap between the advocate and the petitioner. In the result, the petitioner was set ex parte and the award was passed based on the oral evidence of W1 and W2. In the above circumstances and in view of the averments in the writ petition regarding the communication gap, it is only in the interests of justice that the petitioner is given an

opportunity to contest the matter on merits, by putting the petitioner on terms. Accordingly, I set aside Ext.P1 award and remit the matter to the Industrial Tribunal, Alappuzha with a direction to consider the matter afresh, after permitting the parties to adduce evidence. An award shall be passed within a period of four months from the date of receipt of a copy of this judgment. The petitioner shall pay costs to the tune of Rs.5,000/- to the first respondent within a period of one month from today. If the amount as above is not paid and the memo produced before the Tribunal within the said period, the writ petition shall stand dismissed.

The writ petition is disposed of as above.

KURIAN JOSEPH, JUDGE.

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KURIAN JOSEPH, J

O.P.No.12711 of 2003 (L)

J U D G M E N T

Dated 21st February, 2007.